



## UvA-DARE (Digital Academic Repository)

### Anticipating Friction

*The role of human rights in urban debates on migration and diversity: The case of Amsterdam, Hong Kong and Buenos Aires*

Roodenburg, L.

#### Publication date

2021

[Link to publication](#)

#### Citation for published version (APA):

Roodenburg, L. (2021). *Anticipating Friction: The role of human rights in urban debates on migration and diversity: The case of Amsterdam, Hong Kong and Buenos Aires*. [Thesis, fully internal, Universiteit van Amsterdam].

#### General rights

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

#### Disclaimer/Complaints regulations

If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <https://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

---

# Chapter One - Introduction

## 1.1 Research topic: Human rights in the city

### 1.1.1 Introduction

In 2016, the local government of Amsterdam launched its ‘Amsterdam Agenda for Human Rights’.<sup>1</sup> The Amsterdam Human Rights Agenda aims to tailor and concretise human rights to the particular context of Amsterdam. In doing so, the Amsterdam Human Rights Agenda proposes to do several things: to provide a shared language for the city’s diverse inhabitants, to provide a frame of reference for decision-making for civil servants, and to give inhabitants ownership by focussing on their preferred rights issues. The Amsterdam Human Rights Agenda is ambitious. Though, when one takes a closer look, it becomes apparent that some of these ambitions were difficult to realise. The final product does not fully reflect what the inhabitants flagged as most important. There is no additional budget assigned for the implementation of some parts of the agenda. And, many inhabitants and civil servants do not know about the Amsterdam Human Rights Agenda yet.

I started this research searching for examples of cities that engage with human rights. Examples are abundant, and most appear sound and straightforward. Yet, after conducting interviews with civil servants and local NGO staff, a complex picture developed. The urban engagement with human rights is not a linear process. It is rather messy, because cities do not function as coherently operating actors, nor do the local governments ruling them.

There is something novel about the relation between local governments and human rights. In some cases, local governments apply the norms of international law, particularly human rights and environmental law, even when they are not bound to do so by the consent given by their state.<sup>2</sup> Furthermore, local governments collaborate with other actors, such as NGOs, other cities and international organisations, for the realisation of human rights. They, for instance, form

---

<sup>1</sup> For the Amsterdam Human Rights Agenda of 2016, see:

[https://assets.amsterdam.nl/publish/pages/799393/brief\\_mensenrechten\\_in\\_amsterdam.pdf](https://assets.amsterdam.nl/publish/pages/799393/brief_mensenrechten_in_amsterdam.pdf)

<sup>2</sup> J.E. Nijman, ‘The Future of the City and the International Law of the Future’, in S. Muller, S. Zouridis, M. Frishman and L. Kistemaker (eds.), *The Law of the Future and the Future of Law* (The Hague: FICHL Publication Series, 2011); H.P. Aust, ‘Shining Cities on the Hill? The Global City, Climate Change, and International Law’ (2015) 26 *The European Journal of International Law*, 1, 255–278. For example, a number of local governments in the Netherlands started to provide shelter and other kinds of assistance to undocumented migrants, while the national government initially did not approve. Some local governments referred to human rights to explain their deviating approach. Also, the C40 Cities network is committed to realising the Paris Climate Agreement at the urban level, also in cases whereby their national governments are not committed. See: <https://www.c40.org/>. In this regard, the Cities for CEDAW campaign also offers a good example. The campaign motivates local governments in the United States to incorporate CEDAW principles in local law, whereas the United States are not a party to CEDAW, see: <http://citiesforcedaw.org/>. M. Och, ‘The local diffusion of international human rights norms – understanding the cities for CEDAW campaign’ (2018) 20 *International Feminist Journal of Politics*, 3, 425-443.

city-networks and have developed city charters.<sup>3</sup> Local governments also apply and translate human rights norms directly in their local policies and legislation.<sup>4</sup> In doing so, local governments do not solely approach human rights as legal norms, they refer to human rights in more diverse, or versatile, ways.<sup>5</sup>

Frequently, the interaction between cities and international (human rights) norms is described in terms of inventiveness and promise, depicting ‘shining cities on the hill’, in Aust’s words.<sup>6</sup> Van den Berg and Oomen argue that human rights hold the promise of strengthening urban justice and that cities are increasingly the ‘logical loci’ for human rights realisation.<sup>7</sup> Nijman signals that local governments turn to international law for guidance for local ‘good governance’.<sup>8</sup> The promise of the relation between human rights and cities is perceived as twofold: cities are argued to be one of the crucial spaces for realising human rights, and human rights are perceived to contribute to the flourishing of the city.

Is this promise well-grounded? It is pertinent to ask how human rights play out in cities. Local governments invoke human rights norms as part of their foreign affairs, incorporate (elements of) human rights treaties in local legislation or become members of human rights city networks. They also give their opinions on human rights during UN meetings, provide human rights trainings, develop local human rights policy domains, organise human rights festivals or run a human rights office or secretariat. They may focus on one specific human right, a particular set of human rights, or approach human rights in their widest sense. Moreover, local governments can target particular inhabitant groups, or the city at large, collaborate with an array of civil society actors, or only with a particular type of civil society actor.

---

<sup>3</sup> B. Oomen, ‘Introduction: The rise and challenges of human rights cities’, in B. Oomen, M. Davis and M. Grigolo (eds.), *Global Urban Justice: the rise of human rights cities* (Cambridge: Cambridge University Press, 2016); There are, for example, networks of ‘human rights cities’. The first human rights city network was initiated by The People’s Movement For Human Rights Learning (PDHRE) and the first human rights city was Rosario, Argentina. This specific human rights city network is committed to strengthening human rights education. See: <http://www.pdhre.org>. Moreover, there are networks of ‘SDG cities’, ‘Fearless Cities’, ‘Solidarity Cities’, ‘Rainbow Cities’ and many more. One of the most prominent city networks is United Cities and Local Governments (UCLG). UCLG, for instance, initiated a Global Charter-Agenda for Human Rights in the City. Furthermore, local governments have teamed up to create the European Charter for the Safeguarding of Human Rights in the City, and the Korean city Gwangju was the instigator behind the Gwangju Principles on a Human Rights City, the Asian Charter of Human Rights Cities and the yearly Human Rights Cities Forum.

<sup>4</sup> Oomen, ‘The rise and challenges of human rights cities’. For example, the local government of Buenos Aires runs a local secretariat for Human Rights and Cultural Pluralism. Amsterdam has developed an ‘Amsterdam Human Rights Agenda’, in which they tailor human rights to the context of Amsterdam. Utrecht self-identifies as a human rights city and human rights inform their local policies.

<sup>5</sup> See, for example, the typology of the engagement of local governments with human rights by Durmuş. She distinguishes six types of engagement: the formation, implementation, defence, coordination, dissemination, and contestation of human rights. E. Durmuş, ‘A typology of local governments’ engagement with human rights: Legal pluralist contributions to international law and human rights’ (2020) 38 *Netherlands Quarterly of Human Rights*, 1, 30–54.

<sup>6</sup> Aust, ‘Shining Cities on the Hill?’.

<sup>7</sup> E. Van den Berg and B. Oomen, ‘Towards a Decentralisation of Human Rights: the Rise of Human Rights Cities’, in T. van Lindert and D. Lettinga (eds.), *The Future of Human Rights in an Urban World* (The Strategic Studies Project, Amnesty International Netherlands, 2014).

<sup>8</sup> Nijman, ‘The Future of the City’; J.E. Nijman, ‘Renaissance of the City as Global Actor. The role of foreign policy and international law practices in the construction of cities as global actors’, in G. Hellmann, A. Fahrmeir and M. Vec (eds.), *The Transformation of Foreign Policy: Drawing and Managing Boundaries from Antiquity to the Present* (Oxford Scholarship Online, 2016).

---

If engagement with human rights can equal such a range of activities, how do local governments choose what to opt for? Choices on whether and how to engage with human rights are not made in a vacuum. Within cities, there are debates as to what human rights could and should imply. It might be considered logical that a local government commences a human rights project or policy domain because the city is to implement the human rights treaties to which their state consented to be bound. But the decision to, for example, start a women's rights commission instead of a human rights festival or an LGBTQ rights training for civil servants is not made in a vacuum. The city is made up of multiple actors, with their own interests, backgrounds and constraints. Human rights can be tools to pursue actors' agendas, but such agendas, likewise, do not exist in a void. Therefore, the actions of local governments on the terrain of human rights must be understood in interaction with efforts by civil society actors, pragmatism, budgets, legal frameworks, the built environment, the national government, cities' legal competences, their self-image and the expertise of the individuals that make up the local government. How human rights function in cities is subject to the interaction of these elements: the network circumstances.

Because the interaction between these network circumstances is different in every city at any given moment, human rights function differently. Hoffmann reasons that there is no objective way to measure the correct use of human rights. Nor do I strive to determine whether local governments use human rights 'properly'.<sup>9</sup> I do strive to portray how diverse, and sometimes contradictory, the engagement with human rights is, also within cities, and describe what happens behind the scenes. My research demonstrates that we need to understand cities in their complexity of human and non-human relations to be able to describe how human rights function in a particular situation. Because, the different roles human rights exert is not a coincidental state of affairs: it involves strategy on the one hand, and practical constraints on the other. This research moreover shows that local governments too need to be studied closely before applauding their efforts in the name of human rights. To approach human rights in the city in a focused way, I explore the role of human rights in a particular urban policy domain: migration and diversity. On the basis of fieldwork research in three very dissimilar cities – Amsterdam, Hong Kong and Buenos Aires – I assess how the particularities of cities define what human rights can be:

*How do human rights function in urban debates on the governance of migration and diversity?*

In the remainder of this chapter, I undertake four interrelated steps that clarify the relevance of this research question, and my way of answering it. (1) The first step is to explore the current literature on the relation between cities and human rights. It is explained why this stream of literature is topical, and what insights this literature provides on the network circumstances surrounding an invocation of human rights. (2) The second step presents the research design: the research questions and case studies. I situate and explain the research question and sub-questions on the basis of the exploration of the literature. Subsequently, I need to clarify two concepts embedded in the research question: human rights and function. First, I present my conceptualisation of human rights in the city. To explain why I enquire into the urban functions

---

<sup>9</sup> F. Hoffmann, 'Human Rights, the Self and the Other: Reflections on a Pragmatic Theory on Human Rights', in A. Orford (ed.), *International Law and Its Others* (Cambridge: CUP Cambridge, 2006).

of human rights, I discuss the connotations between human rights and their potential for change and contestation. Lastly, the selection of the three case studies is explained. This entails describing why I chose to focus this research on the governance of migration and diversity, and why I chose to do this in three very dissimilar cities. (3) The third step revolves around the methodological lens. This step clarifies how I describe and analyse the case studies. It unpacks how I use several elements of actor network theory to structure the case study chapters on Amsterdam, Hong Kong and Buenos Aires. (4) The fourth step, ‘methods’, describes how the qualitative data collection and analysis was executed. I made use of different sources: policy documents, city council meetings, websites and in-depth interviews. This last step explains how I assembled and combine these different types of data.

### 1.1.2 Cities and international law: a new research agenda

Research on the relation between cities and international law is taken on by several academic communities. What stands out is that this stream of scholarship is fairly recent, and that the relation between international law and cities is depicted as topical and innovative. Some scholars take a wider perspective and focus on the relation between cities and international law. Others particularly focus on the interaction between cities and human rights. My research joins the latter stream of research, but also takes into account the literature on the relation between cities and international law.

Scholars of different fields emphasise that local and multilevel approaches to human rights implementation have potential. They give attention to actors other than the state and argue that human rights need to be contextualised, translated and interpreted in local contexts for them to have real-world relevance. But these scholars do not always explicitly focus on the city and its urban actors as a local space.<sup>10</sup> Disciplinary borders are clearly visible. International relations scholars, for instance, have been trying to grasp when, why and how states comply with international law by assessing processes of norm creation, diffusion and enforcement.<sup>11</sup> These studies also touch upon the fact that these processes engage with lower levels of government and non-governmental actors. Legal anthropologists have contributed with studies on the contextualisation of global norms at local scales, frequently without explicit attention to the

---

<sup>10</sup> See for example the work of R. Goodman and D. Jinks, ‘Social mechanisms to promote international human rights: complementary or contradictory?’, in T. Risse, S.C. Ropp and K. Sikkink (eds.), *The Persistent Power of Human Rights. From Commitment to Compliance* (Cambridge: Cambridge University Press, 2013); T. Risse and K. Sikkink, ‘The socialization of human rights norms into domestic practices: introduction’, in T. Risse, S.C. Ropp and K. Sikkink (eds.), *The Power of Human Rights* (Cambridge: Cambridge University Press, 1999); K. De Feyter, ‘Localizing Human Rights’, Institute of Development Policy and Management Discussion Paper, University of Antwerp (2006); S.E. Merry, *Human rights and gender violence: translating international law into local justice* (Chicago: The University of Chicago Press, 2006); M. Goodale and S.E. Merry (eds.), *The Practice of Human Rights. Tracking human rights between the global and the Local* (Cambridge: Cambridge University Press, 2007); H.H. Koh, ‘Internalization through Socialization’ (2005) 54, *Duke Law Journal*, 4, 975-982; J.A. Fraser, ‘Challenging State-centricity and legalism: promoting the role of social institutions in the domestic implementation of international human rights law’ (2019) *International Journal of Human Rights*, 1-19.

<sup>11</sup> See the work of Risse and Sikkink, ‘The socialization of human rights norms’; R. Goodman and D. Jinks, ‘How to influence states: Socialization and international human rights law’ (2004) 54 *Duke Law Journal*, 3, 621-703; Goodman and Jinks, ‘Social mechanisms’; R. Goodman and D. Jinks, ‘Incomplete Internalization and Compliance with Human Rights Law’ (2008) 19 *The European Journal of International Law*, 4, 725-748.

city.<sup>12</sup> The other way around, urban studies scholars have focused on the notion of the just city while linking this to processes of urban development and governance, often without explicit engagement with human rights or international law.<sup>13</sup>

At the same time, there are more and more scholars who combine both approaches. A growing source of socio-legal scholarship studies the ways in which cities, or specific urban actors such as the local government or NGOs, engage with human rights. Thus far, socio-legal scholars produce the majority of the empirical research on this topic.<sup>14</sup> This stream of literature seldom opts for a ‘traditional legal approach’ to human rights implementation, because it remains hard to grasp the relation between cities and human rights in such frameworks. Oomen and Baumgärtel argue international law scholars have struggled to get ahead of developments because they rely too much on statist conventional frameworks.<sup>15</sup> Efforts to understand the dynamic between human rights and cities have often resulted in trying to fit this interaction into conventional frameworks. For instance, by trying to determine whether a certain practice of a local government could count as soft law or whether we could envisage a formal UN membership of local governments.

Blank adds that legal scholars have largely ignored the transformation of local governments into relevant international actors.<sup>16</sup> Traditionally, legal scholarship worked with two pairs. One is international law and institutions & the state, and the other pair is the state & the local government. The pairs operated separately from each other and had no legal relation. International law subjects states and is created by states and international institutions. Local governments are regulated by states and therefore international law has no direct influence. Today, argues Blank, the relation between international law, states and local governments

---

<sup>12</sup> See the work of R.A. Wilson (ed.), *Human rights, culture and context: Anthropological perspectives* (London: Pluto Press, 1997); Goodale and Merry, ‘The Practice of Human Rights’; M. Goodale, ‘Anthropology and the Grounds of Human Rights’, in D. Shelton (ed.), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013); D.M. Goldstein, ‘Whose Vernacular? Translating human rights in local contexts’, in M. Goodale (ed.), *Human rights at the crossroads* (Oxford: Oxford University Press, 2014); R. Niezen, ‘The Law’s legal anthropology’, in M. Goodale (ed.), *Human rights at a crossroads* (Oxford: Oxford University Press, 2014).

<sup>13</sup> See: D. Harvey, *Social Justice and the City* (University of Georgia Press, 1973); D. Harvey, *Rebel cities. From the right to the city to the urban revolution* (London: Verso, 2012); P. Marcuse, J. Connolly, J. Nocy, I. Olivo, C. Potter and J. Steil (eds.), *Searching for the Just City. Debates in urban theory and practice* (Abingdon: Routledge Questioning Cities Series, 2009); S. Fainstein, *The Just City* (Cornell University Press, 2010); R. Sennett, *Building and Dwelling: Ethics for the City* (Penguin Books Ltd, 2018).

<sup>14</sup> To illustrate, the edited volume *Global Urban Justice* approaches this relation from different angles by assessing how the ‘human rights city’ label translates into practice and what the human right to water entails in the urban, to a study on the recognition of the ‘right to the city’, B. Oomen, M. Davis and M. Grigolo (eds.), *Global Urban Justice: the rise of human rights cities* (Cambridge: Cambridge University Press, 2016). Och explores how the norms of CEDAW diffuse in cities in the USA, hereby addressing the role of both civil society and local governments, Och, ‘The local diffusion of international human rights norms’. Grigolo studies the local government of Barcelona’s take on human rights by researching the functioning of its urban office for non-discrimination, M. Grigolo, ‘Human rights and cities: the Barcelona office for Non-Discrimination and its work for migrants’ (2010) 14 *The International Journal of Human Rights*, 6, 896-914. Miellel investigates how small-sized local governments in the Netherlands contest human rights responsibilities in the realm of undocumented migration, S. Miellel, ‘Human rights encounters in small places: the contestation of human rights responsibilities in three Dutch municipalities’ (2019) 51 *The Journal of Legal Pluralism and Unofficial Law*, 2, 213-232.

<sup>15</sup> B. Oomen and M. Baumgärtel, ‘Frontier Cities: The Rise of Local Authorities as an Opportunity for International Human Rights Law’ (2018) 29 *The European Journal of International Law*, 2, 607-630.

<sup>16</sup> Y. Blank, ‘Localism in the New Global Legal Order’ (2006) 47 *Harvard International Law Journal*, 1, 263-281.

should be viewed as a trinity: ‘Local governments can use international law in their struggle against states [...] and the world no longer addresses them [states and local governments] as if they were the same legal creature’.<sup>17</sup> Local governments are not the only actors that, relatively recently, established relations with international law and global institutions. Other ‘new’ actors in this respect are NGOs and corporations, although the literature on this group of non-state actors is less recent.<sup>18</sup> The situation of local governments is different, argues Blank.<sup>19</sup> Local governments are public rather than private, (in cases) democratically elected, and territorial. Moreover, there has been substantial attention for the practices of NGOs and corporations at the global stage, compared to research on local governments. Nonetheless, international law scholarship is increasingly concerned with the relation between international law and the city. Attention is paid to the presence of international law in everyday life and the course of international law beyond the nation-state.<sup>20</sup> Furthermore, the work of Nijman, Aust and Adams et al. calls for a new, city-focused research agenda in legal scholarship.<sup>21</sup>

Lastly, I must note that several scholars stress that the relation between cities and international law is not entirely new. To give some examples: Nijman explores this historical perspective briefly in the context of the medieval and early-modern Hanseatic League and calls today’s developments the ‘Renaissance of the city as global actor’.<sup>22</sup> Moreover, scholars reason that the city has always been linked to a sense of cosmopolitanism. Some cities have always constituted something worldly and have been connected globally, and have ever since been entangled with cosmopolitan values.<sup>23</sup> Also, the prevalent notion of the right to the city originates from the work of Lefebvre from 1967.<sup>24</sup>

---

<sup>17</sup> Y. Blank, ‘The City and the World’ (2006) 47 *Columbia Journal of Transnational Law*, 686, 875-939, 889.

<sup>18</sup> The role of non-state actors in international law-making and in the realisation of international law has received much attention from the late 90s onwards. It has become a sub-discipline in international (human rights) law scholarship. Non-state actors are included in Handbooks on International Law, and special issues and edited volumes are dedicated to the role of non-state actors. See for example: D. Weissbrodt, ‘Roles and Responsibilities of Non-State Actors’, in D. Shelton (ed.), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013); N. Rodley, ‘Non-state actors and human rights’, in S. Sheeran and N. Rodley (eds.), *Routledge Handbook of International Human Rights Law* (Routledge, 2013).

<sup>19</sup> Blank, ‘The City and the World’.

<sup>20</sup> See the work of B. Rajagopal, *International Law from Below. Development, Social Movements and Third World Resistance* (Cambridge: Cambridge University Press, 2003); L. Eslava, *Local Space, Global Life: The Everyday Operation of International Law and Development* (Cambridge: Cambridge University Press, 2015).

<sup>21</sup> Nijman, ‘The Future of the City’; Nijman, ‘Renaissance of the City’; Aust, ‘Shining Cities of the Hill?’; M. Adams, E. Hirsch Ballin, G.J. Leenknecht, C. Colombo, and M. Groenleer, ‘Constitutionalisme in de eeuw van de stad: Over stadsrecht en rechtsstaat’ (2017) *Nederlands Juristenblad*, 2728-2739.

<sup>22</sup> Nijman, ‘Renaissance of the City’.

<sup>23</sup> J. Binnie, J. Holloway, S. Millington and C. Young (eds.), *Cosmopolitan Urbanism* (Abingdon: Routledge, 2006).

<sup>24</sup> Later on, the right to the city was taken on by Harvey, ‘Rebel cities’, 23. Harvey explained it as ‘the right of each of us to make the city after our heart’s desire’, for everyone who is living in the city to be included in all processes that make the city. Attoh argues that the right to the city is used in very different ways, where for some it is about autonomy in the face of state urban policy, for others it is a right to occupy vacant property or a right to political space. K.A. Attoh, ‘What kind of right is the right to the city?’ (2011) 35 *Progress in Human Geography*, 5, 669-685.

### 1.1.3 Understanding the interaction between local governments and human rights

Scholars from the aforementioned disciplines try to grasp how we can understand the novel relation between cities and international law/human rights. They try to understand why cities (and its actors, such as the local government) turn to international law and/or why international law (and its actors) turn to cities. The explanations these scholars put forward help me to get insight into the context, the network circumstances, surrounding an invocation of human rights. Local governments do not engage with human rights spontaneously. On the contrary, this scholarship demonstrates that local governments engage with human rights in response to a combination of international, national and local factors. For instance, because of the challenges of globalisation, the influence of international organisations or conflicts of interest with the national government. In this section, I discuss which network circumstances the scholars identify.

Reasoned from a legal point of view, it is nothing new that local governments engage with human rights norms, argues Blank.<sup>25</sup> Like other sub-national entities, local governments are seen as an integral part, ‘a local branch’, of their states.<sup>26</sup> Because local governments are part of the state and bound by their constitution, they have an obligation to comply with the norms of international law to which their state is bound, or to international legal norms that have been incorporated in domestic law, and - within their remit – take part in the implementation.<sup>27</sup> But even when a local government violates human rights norms, the international legal obligation is incumbent upon the state.<sup>28</sup> There is some attention for the indirect responsibilities of local governments.<sup>29</sup> The Convention on the Rights of the Child is one of the exceptions since it explicitly addresses all levels and branches of government.<sup>30</sup> Moreover, some monitoring bodies of human rights treaties have emphasised the importance of multiple levels of government: ‘All branches of government (executive, legislative, judiciary) and other public governmental authorities, at whatever level – national, regional, local – are in a position to engage the responsibility of the State Party’.<sup>31</sup>

At the same time, some scholars detect that the actors of international human rights law shift their gaze. The international human rights system is moving from a stage wherein the creation and establishment of norms was the main task, to a stage wherein their actual implementation

<sup>25</sup> Blank, ‘Localism in the New Global Legal Order’.

<sup>26</sup> Blank, ‘The City and the World’.

<sup>27</sup> Nijman, ‘Renaissance of the City’.

<sup>28</sup> Blank, ‘The City and the World’. That cities remain ‘invisible’ in international law is understandable through the origins of international law. International law originated in response to the rise of the nation-state. As a result, the nation-state remains the central concern of international law, explain Frug and Barron. G.E. Frug and D.J. Barron, ‘International Local Government Law’ (2006) 38 *The Urban Lawyer*, 1.

<sup>29</sup> Oomen and Baumgärtel, ‘Frontier Cities’. Van den Berg and Oomen describe that this is also recognised in the context of decentralisation by the European Court of Human Rights in ‘Assanidze vs Georgia’ (2004) 71503/01, 8 April: ‘The court reiterates that in international law the expression ‘governmental organization’ cannot be held to refer only to the government or central government of state. Where powers of the state are distributed along decentralized lines, it refers to any national authority exercising public functions’. Van den Berg and Oomen, ‘Towards a Decentralisation of Human Rights’.

<sup>30</sup> Convention on the Rights of the Child, article 3: ‘In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration’.

<sup>31</sup> Human Rights Committee of the ICCPR General comment no 31. The nature of the general legal obligation imposed on states parties to the covenant, 29 March 2004.



has to be realised in one way or another.<sup>32</sup> As a consequence, more attention is given to other actors and scales, beyond the state, that can play a role in this realisation. Local governments are frequently portrayed as actors that can challenge the shortcomings of the ‘traditional’ human rights regime.<sup>33</sup> It is argued that local governments are simply better equipped to realise human rights because they are ‘closer to their people’ and hence better able to guarantee democratic interpretations of human rights.<sup>34</sup> Moreover, local governments are perceived as more hands-on and pragmatic, while national governments are in ‘political deadlock’.<sup>35</sup> Local governments act more hands-on because local issues are immediate, and in need of swift action.<sup>36</sup>

The relation between human rights and local governments is also explained the other way around. Because cities are confronted with extreme challenges, local governments are in need of (moral and legal) guidance. The majority of today’s challenges, such as rising inequality, (transnational and regional) migration, unemployment and environmental degradation are most urgently felt in cities, and, local governments play a crucial role in responding to these challenges.<sup>37</sup> The urgency of these challenges is further intensified because the world is undergoing a steady process of urbanisation.<sup>38</sup> On top of this, the global trend of decentralisation, whereby services (such as housing, education, healthcare, infrastructure, social benefits) that were traditionally arranged by the national government are transferred to lower levels of government.<sup>39</sup> When services are decentralised, local governments become ‘duty bearers in their own right’.<sup>40</sup>

Local governments’ turn to international norms also has to do with their agenda’s and priorities, independent of their states.<sup>41</sup> Nation states do not only impose global norms on ‘passive localities’.<sup>42</sup> At times, local governments use the language of international law to foster their autonomy. Local policy is backed up and legitimated by international norms in cases that local

---

<sup>32</sup> Van den Berg and Oomen, ‘Towards a Decentralisation of Human Rights’.

<sup>33</sup> Aust, ‘Shining Cities on the Hill?’.

<sup>34</sup> Blank remarks that although practically speaking aspects of democracy are easier to realise at the local level, this does not give any guarantees. Cities are not inherently more democratic. Blank, ‘Localism in the New Global Legal Order’.

<sup>35</sup> Oomen and Baumgärtel, ‘Frontier Cities’; B.R. Barber, *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities* (New Haven: Yale University Press, 2013); B.R. Barber, ‘Cities as Glocal Defenders of Rights’, in T. van Lindert and D. Lettinga (eds.), *The Future of Human Rights in an Urban World* (The Strategic Studies Project, Amnesty International Netherlands, 2014).

<sup>36</sup> K. Mossberger, S.E. Clarke and P. John, ‘Studying Politics in an Urban World: research traditions and new directions’ in P. John, K. Mossberger and S.E. Clarke (eds.), *The Oxford Handbook of Urban Politics* (Oxford: Oxford University Press, 2012); I.M. Porras, ‘The City and International Law: In Pursuit of Sustainable Development’ (2009) 26 *Fordham Urban Law Journal*, 537, 537-602. This idea is often illustrated by a quote from Mike Bloomberg, former mayor of New York. In his speech at the launch of the C40 Cities Climate Leadership Group in 2012 he said: ‘We’re the level of government closest to the majority of the world’s people. We’re directly responsible for their well-being and their futures. So, while nations talk, but too often drag their heels, cities act’.

<sup>37</sup> More specifically, 60% of the world population is expected to live in urban areas by 2040. Nijman, ‘Renaissance of the City’.

<sup>38</sup> Nijman, ‘Renaissance of the City’; D. Saunders, *Arrival city. How the largest migration in history is shaping our world* (Vintage, 2012).

<sup>39</sup> Nijman, ‘Renaissance of the City’.

<sup>40</sup> Van den Berg and Oomen, ‘Towards a Decentralisation of Human Rights’.

<sup>41</sup> Oomen and Baumgärtel, ‘Frontier Cities’; Barber, *If mayors ruled the world*; Barber, ‘Cities as Glocal Defenders of Rights’.

<sup>42</sup> Blank, ‘Localism in the New Global Legal Order’.

policies depart from national standards.<sup>43</sup> An often-cited example in this respect is the ‘ratification’ of the Kyoto Protocol by US mayors.<sup>44</sup> This is also illustrated by the observation that international organisations and local governments have become inclined to by-pass the state and consider direct relations.<sup>45</sup> International organisations often strive for (neoliberal) reforms of the traditional state-based system, and local governments try to leverage a level of self-determination which can be fostered by obtaining direct international funding. A number of international institutions even promote decentralisation.<sup>46</sup>

As a consequence, some local governments have become more aware of their international profile and identity.<sup>47</sup> They create foreign offices and uphold international relations. Local governments self-identify as global actors and mimic other cities and states in their participation in the practices of the global society.<sup>48</sup> This identity-construction plays out at the international scale, through participation in international networks, as well as by using global norms and language in local urban affairs. Darling underlines that by engaging with certain norms, local governments help construct their urban identity in an attractive way and make known their moral affiliations.<sup>49</sup> Hence, this identity-building exercise has (competitive) advantages as well.<sup>50</sup> An engagement with human rights can function as a gateway to other human rights actors at the global stage or for city branding purposes, which can provide access to sources of

<sup>43</sup> Nijman, ‘The Future of the City’; Aust, ‘Shining Cities on the Hill?’.

<sup>44</sup> See: <https://www.usmayors.org/mayors-climate-protection-center/>

<sup>45</sup> Nijman, ‘Renaissance of the City’; Blank, ‘Localism in the New Global Legal Order’. The work of Marcenko also illustrates how global and local levels cooperate, M. Marcenko, ‘International assemblage of the security of tenure and the interaction of city politics with the international normative discourse’ (2019) 51 *The Journal of Legal Pluralism and Unofficial Law*, 2, 151-171. To name a few concrete examples: (1) Local governments were involved in the drafting process of the UN Habitat 3 New Urban Agenda. About 2000 representatives from local authorities attended several sessions and provided written input. However, it must be noted that the actual drafting of the New Urban Agenda was an affair for state representatives. (2) The World Bank aims to contribute to developing ‘sustainable cities’, in line with Sustainable Development Goal 11. To do so, The World Bank is providing a variety of assistance to cities.

See: <https://www.worldbank.org/en/topic/urbandevelopment/overview#2> (3) In 2015, the Human Rights Council Advisory Committee’s published a report on the ‘Role of local government in the promotion and protection of human rights’, A/HRC/30/49.

<sup>46</sup> Nijman, ‘Renaissance of the City’. For instance, UN Habitat promotes decentralisation and the Council of Europe has adopted the European Charter of Local Self-Government in 1985, which stipulates that states guarantee the political, administrative and financial independence of local governments. See UN Habitat’s (2007) International guidelines on decentralisation and the strengthening of local authorities: [https://smartnet.niua.org/sites/default/files/resources/International%20guidelines%20on%20decentralisation\\_UN\\_HABitat.pdf](https://smartnet.niua.org/sites/default/files/resources/International%20guidelines%20on%20decentralisation_UN_HABitat.pdf); UN Habitat’s (2009) International Guidelines on Decentralization and Access to Basic Services for all; Also, the UN Habitat New Urban Agenda (2017), article 89: ‘We will take measures to establish legal and policy frameworks, based on the principles of equality and non-discrimination, to enhance the ability of Governments to effectively implement national urban policies, as appropriate, and to empower them as policymakers and decision makers, ensuring appropriate fiscal, political and administrative decentralization based on the principle of subsidiarity’.

<sup>47</sup> Nijman, ‘The Future of the City’; Aust, ‘Shining Cities on the Hill?’; B. Oomen, ‘Introduction: The rise and challenges of human rights cities’.

<sup>48</sup> Nijman, ‘The Future of the City’. Moreover, King & Blake even call it cities’ need to aggressively compete to become more global. L. King and M. Blake, ‘Global cities, global justice?’ (2019) *Journal of Global Ethics*, 1, 21. Moreover, Fainstein argues that as a result, city leaders are often required to frame every form of public expenditure in terms of enhancing competitiveness. Fainstein, ‘The Just City’.

<sup>49</sup> J. Darling, ‘Moral urbanism, asylum, and the politics of critique’ (2012) *Environment and Planning A*, 45, 1785-1801.

<sup>50</sup> M. Garcia and D.R. Judd, ‘Competitive Cities’, in P. John, K. Mossberger and S.E. Clarke (eds.), *The Oxford Handbook of Urban Politics* (Oxford: Oxford University Press, 2012).

funding and expertise.<sup>51</sup> When local governments self-identify as, for instance, a ‘human rights city’, they create spaces for collaboration.

On the basis of scholarly work, we know that there are several network circumstances at play. The international human rights system shifts its focus to new actors and scales, including local governments. At the same time, local governments always had (indirect) legal responsibilities, and the list of responsibilities is growing because of decentralisation. Furthermore, many challenges are felt most urgently in urban space because of globalisation and urbanisation, which is why local governments seek for governance solutions. Alongside, local governments (and international organisations) have political, moral and economic interests in the engagement with human rights. This sparks two questions: how do these circumstances interrelate? The network circumstances described above do not develop in synchrony in all cities around the world. On the contrary, I presume that these processes are rather city-specific. Secondly, what happens when these circumstances align and local governments do engage with human rights? In other words, how do human rights function in the urban?

## **1.2 Research design: Three cities, six moments**

### 1.2.1 Introduction

In this section, I present my research design: the research questions, and the cases I draw on to answer these questions. First, I unpack the main research question into several sub-questions. After explaining the questions that guide this research, the following two sections are used to clarify the terms that are embedded in the research question: human rights and function. Finally, I present the case studies in more detail. I justify why I chose to focus on urban debates on the governance of diversity and migration, and why I chose to research these debates in the cities Amsterdam, Hong Kong and Buenos Aires.

### 1.2.2 Research questions

Following the exploration of the literature, I want to open up the notion ‘cities’ and explore the interactions that take place in the realm of the urban, which produce possible usages of human rights. For example, why are human rights used to promote and profile the multicultural city in one instance, while they are invoked to better the treatment of a migrant group in another? These are not self-evident paths, it is a combination of strategy and constraints, or perhaps even coincidence. In other words, this research assesses how an interplay of network circumstances defines and determines the different roles of human rights in the city. I will explore this with the following main research question:

*How do human rights function in urban debates on the governance of migration and diversity?*

Answering this question entails three steps. (1) The first step is a description of which urban actors invoke human rights, and how they do so. As Oomen states: ‘The translation of human

---

<sup>51</sup> Oomen, ‘Introduction: The rise and challenges of human rights cities’.

rights inevitably involves making a selection from the ever-expanding human rights catalogue'.<sup>52</sup> I understand this as the selection these actors made regarding their approach to human rights, and their choice of a specific human rights norm or set of norms. To describe this in a focused manner, and to not endlessly trace all instances in which human rights were referred to, I concentrate on two moments in each city. I describe two relatively recent moments when the urban response to migration or diversity changed (e.g. a new project, regulation or perception). Subsequently, I describe how human rights were approached in relation to this new project/regulation/perception, and by whom.

- What does the new response to migration or diversity entail?
- Which urban actors engage with human rights vis-à-vis the new response?
- How do these actors approach human rights (e.g. as legal standards, moral values or principles of good governance)?

(2) In a second step, I assess the network circumstances in which this engagement with human rights took place. Urban actors made choices, and they did not make these choices in a void. A local government may, for example, start a human rights secretariat. In this step, I trace why this local government thought this was necessary and how they executed this plan by involving other actors. Hence, this step provides insight into the network circumstances. And, it also allows me to draw parallels between the network circumstances in the three cities. The latter provides insight as to whether there is something *particular* about the network circumstances surrounding human rights and migration in cities.

- Who are the actors involved and what do their internal dynamics consist of?
- What 'translation activities' do these actors undertake to make sense of the perceived problem, their role vis-à-vis the problem and the roles of others?
- How do the network circumstances overlap and/or contradict within and between the three cities?

(3) This final step is about the outcome. What happens when the network circumstances align in a certain way? On the basis of the description of the moment and the network circumstances, I draw out how human rights function. In doing so, I assess the different usages of human rights in the space of each city, while I also draw parallels between the three cities.

- What different functions of human rights can be distinguished amidst the six moments, in the three cities?
- How do the functions of human rights overlap and/or contradict within each city?
- How do the functions of human rights overlap and/or contradict between the three cities?

---

<sup>52</sup> Oomen, 'Introduction: The rise and challenges of human rights cities', 7.

### 1.2.3 Approach to human rights

In this section, I clarify how this research approaches human rights. Sen argues that human rights implementation can go well beyond legislation and the juridical sphere.<sup>53</sup> I too underwrite that mainstream legal reasoning would not suffice to grasp how urban actors engage with human rights. Regularly, human rights are used without an explicit reference to law.

Though, this does not only apply to the urban. In general, several scholars argue that human rights receive part of their content, and relevance, through the different ways actors engage with them. Goodale's point of departure is that human rights have multiple meanings that are constituted by human rights practice. Human rights practice refers to 'all of the ways in which social actors across the range talk about, advocate for, criticise, study, legally enact, vernacularize, and so on, the idea of human rights in its different forms'.<sup>54</sup> In this sense, human rights do not exist outside the social practice<sup>55</sup>, but should rather be understood for what they are and not for what they ought to be.<sup>56</sup> Hence, human rights can be considered as fluid. They are 'neither bound nor stable, global nor local, neither law, morality nor culture [...] they are all of these together'.<sup>57</sup> I subscribe to this fluidity in the ways urban actors approach human rights. For the purposes of this research I use a categorisation, to be able to describe and distinguish the invocations of human rights I come across.

Merry et al., in their study of social movements in New York, differentiate three different approaches to human rights that are used in the urban.<sup>58</sup> These three approaches to human rights – as legal standards, moral values and principles of good governance – are not always complementary: 'The law, value and governance sides of human rights are uneasy bedfellows, not always companionable but unable to act alone'.<sup>59</sup>

The legal approach to human rights implies that human rights are legal standards, which are embedded in international and regional human rights instruments.<sup>60</sup> This approach stems from a perception that human rights, as international and regional legal norms, oblige protection and implementation. Human rights create positive obligations about 'what to do' to safeguard

---

<sup>53</sup> A. Sen, 'Elements of a Theory of Human Rights' (2004) 4 *Philosophy & Public Affairs*, 32, 315-356.

<sup>54</sup> M. Goodale, 'Introduction Locating rights, envisioning law between the local and the global', in M. Goodale and S.E. Merry (eds.), *The Practice of Human Rights* (Cambridge: Cambridge University Press, 2007), 24; Merry phrases this as the process of vernacularisation: the forms of alteration and resistance that occur during the actualisation of human rights law and governance. Merry, Human rights and gender violence. In this line of thought, Benhabib presents the notion 'jurisgenerativity of law': the law's capacity to create meaning that can escape formal law-making and law-application. According to Benhabib, this involves 'complex processes of public argument, deliberation, and exchange through which universalist rights claims are contested and contextualised, invoked and revoked, posited and positioned'. S. Benhabib, 'Claiming Rights across Borders: International Human Rights and Democratic Sovereignty' (2009) 103 *American Political Science Review*, 4, 691-704.

<sup>55</sup> B. Rajagopal, 'Introduction Encountering Ambivalence', in M. Goodale and S.E. Merry (eds.), *The Practice of Human Rights* (Cambridge: Cambridge University Press, 2007).

<sup>56</sup> Hoffmann, 'Human Rights, the Self and the Other'.

<sup>57</sup> Ibid.

<sup>58</sup> S.E. Merry, M.S. Rosen, P. Levitt and D.H. Yoon, 'Law from below: Women's Human Rights and Social Movements in New York City' (2010) 44 *Law & Society Review*, 1, 101-128. I have also used this particular categorisation, on the basis of the work of Merry et al., in my article: L. Roodenburg, 'Urban approaches to human rights: tracking networks of engagement in Amsterdam's debate on irregular migration' (2019) 51 *The Journal of Legal Pluralism and Unofficial Law*, 2, 192-212.

<sup>59</sup> Merry et al., 'Law from below', 125.

<sup>60</sup> Merry et al., 'Law from below'.

human rights and negative obligations about how not to act. The legal approach to human rights can involve several applications in the city. It might indicate that a specific set of human rights norms oblige a local government to respect the human rights standards their nation-state has committed to, as well as to interpret these legal norms into local legislation and policy. Barcelona's local government, for instance, runs a complaint Office for Non-Discrimination based on international, EU and national human rights standards.<sup>61</sup> Alternatively, the legal approach may imply that a local government considers itself obliged to respect a particular human rights standard, even though their nation state does not commit to the norm. The legal approach might also imply that urban actors participate in reporting procedures of international human rights treaty bodies. Lastly, it could involve civil society actors that use strategic litigation to strategise for change and assist inhabitants in preparing legal claims. Such claims, in turn, may result in a judgement that has legal implications for the local government.

Human rights do not only have a legal appeal. They are also approached in an aspirational or inspirational sense.<sup>62</sup> The moral approach to human rights centres around core values such as human dignity, humanity, equality and non-discrimination.<sup>63</sup> In this sense, human rights are approached as a system of values that is intrinsically connected to humankind. Civil society actors, for instance, use the moral approach to draw a connection between local issues and global movements and discourses, or to profile and morally position their movement.<sup>64</sup> At the same time, local governments may avail of the moral approach to human rights to construct a shared urban language or to vocalise a collective urban identity.<sup>65</sup>

When human rights are understood as principles of good governance, Merry et al. refer to a more recent development whereby human rights become associated with signifiers of democratic governance such as participatory decision-making, transparency and accountability.<sup>66</sup> An example of this approach is the United Cities and Local Governments Committee on Social Inclusion, Participatory Democracy and Human Rights. The committee's mission is to 'articulate a joint voice that puts the right to the city, human rights and local democracy at the heart of the global municipalist movement'.<sup>67</sup> Another example is the Asian Charter of Human Rights Cities in 1998 that was initiated by the Korean city Gwangju, the host of the yearly World Human Rights Cities Forum. This charter calls for good governance principles such as participation.<sup>68</sup>

I want to stress that these three different approaches to human rights do not come to be coincidentally. In some urban spaces, some urban actors are more likely to have a certain

<sup>61</sup> Grigolo, 'Human rights and cities'.

<sup>62</sup> Oomen, 'Introduction: The rise and challenges of human rights cities', 12.

<sup>63</sup> Merry et al., 'Law from below'.

<sup>64</sup> Oomen, 'Introduction: The rise and challenges of human rights cities'.

<sup>65</sup> Oomen and Baumgärtel, 'Frontier Cities'.

<sup>66</sup> Merry et al., 'Law from below'.

<sup>67</sup> For the United Cities and Local Governments Committee on Social Inclusion, Participatory Democracy and Human Rights, see: <https://www.uclg-cisd.org/>

<sup>68</sup> For the Asian Charter of Human Rights Cities, see: <https://www.ru.nl/publish/pages/688605/asianhumanrights-eng.pdf>; The same accounts for the European Charter for the Safeguarding of Human Rights in the City, see: [https://www.uclg-cisd.org/sites/default/files/CISDP%20Carta%20Europea%20Sencera\\_baixa\\_3.pdf](https://www.uclg-cisd.org/sites/default/files/CISDP%20Carta%20Europea%20Sencera_baixa_3.pdf); as well as for the Global Charter for Human Rights in the City, which was initiated by UCLG. See: <https://www.uclg-cisd.org/en/right-to-the-city/world-charter-agenda>

approach to human rights. The legal approach to human rights is, for instance, more difficult to use by the average inhabitant than for an NGO that is specialised in strategic litigation, or the legal department of a local government.<sup>69</sup> At the same time, a local government may be more cautious to approach human rights legally. For them, a legal approach could lead to a peculiar situation vis-à-vis the national government if the latter does not consent to be bound to those norms.

### 1.2.4 Human rights and (urban) function

This research is not about mapping the variety of approaches to human rights that may exist in the urban. It is not about providing an exhaustive list of the urban engagement with human rights, rather, it is about exploring how human rights function in a selected number of urban debates on migration and diversity. Function, in this sense, refers to the outcome: the different roles human rights exert after urban actors refer to them. Urban actors invoke human rights – be it as law, moral values or principles of good governance - with certain intentions: to change something, to improve something, to contest something, to preserve something.

The potential of change, transformation and contestation is often put forward by scholars and policymakers as a fundamental function of human rights. Human rights are normative claims about how things should be. To invoke human rights is to challenge the order of things, to confront structures of power and privilege. And, as several scholars stress, human rights language has been dominant in most post-Cold War democratic transitions.<sup>70</sup>

I have already mentioned such (potentially) transformative functions that apply to human rights in the city. Human rights may function as a language to foster the local government's autonomy. Human rights may provide city leaders with guidance in dealing with the pressing challenges related to globalisation, urbanisation and decentralisation<sup>71</sup>. This, in turn, might incite a range of new initiatives such as a claim office, a new human rights project, or the restructuring of local policy domains based on human rights standards.

Human rights may grow to be the shared language that a city's diverse population can relate to and avail of. Moreover, human rights may function as 'a bonding factor' and foster new coalitions of actors. In this regard, Oomen remarks that human rights bring together local actors that might not have shared interests otherwise.<sup>72</sup>

Human rights may empower local civil society actors. Darling stresses that local governments' legal and moral commitment to human rights has a political effect because it creates expectations on positions.<sup>73</sup> It sets a standard, on the basis of which actors can be held accountable.<sup>74</sup> Risse et al. argue that this is what civil society actors do in practice. Once the (local) government puts forward a moral commitment, for instance by calling itself a human

---

<sup>69</sup> Merry et al., 'Law from below'.

<sup>70</sup> M. Goodale, 'Human Rights After the Post-Cold War', in M. Goodale (ed.), *Human Rights at the Crossroads* (Oxford: Oxford University Press, 2014); Wilson, 'Human rights, culture and context'.

<sup>71</sup> Nijman, 'Renaissance of the City'.

<sup>72</sup> Oomen, 'Introduction: The rise and challenges of human rights cities', 7.

<sup>73</sup> Darlin, 'Moral urbanism'.

<sup>74</sup> Goodman and Jinks, 'Incomplete Internalization'.

rights city, other actors have a basis to make sure the government sticks to it.<sup>75</sup> In another situation, an urban group could get access to a certain service through a human rights claim of a civil society actor.

Human rights are often presented as a neutral language in which all rights are equal, indivisible and interdependent.<sup>76</sup> Though, scholars note that the taken for granted use of the norms can, in cases, mask disciplinary projects.<sup>77</sup> Among scholars, there exists scepticism about the idea that human rights have a potential for altering (local) governance for the good. Goodman and Jinks believe that governments have no interest in structural commitments if they alter current decision-making structures.<sup>78</sup> The danger exists that, in institutionalised settings, human rights function merely as a label that portrays initiatives in an attractive and convincing way. Goodale calls it ‘a sort of large-scale performance in which the players acted ‘as if’ their decisions, their beliefs, and their moral visions were shaped by human rights’, a performance primarily executed for international donors.<sup>79</sup>

In this regard, Oomen and Baumgärtel note that the city’s agenda might be even more susceptible to neoliberal calls for privatisation, thereby disguising private interests in human rights language.<sup>80</sup> Aust argues that city networks that engage with international law, for example the C40 Climate network, heavily rely on private and international funding (for instance by The Ford Foundation and the World Bank).<sup>81</sup> It can be questioned to what extent these funders determine the agendas of these networks, given their inclination towards neoliberalist interests.<sup>82</sup> A similar argument is made by Porras, who argues that cities are becoming increasingly privatised, which erodes their public functions.<sup>83</sup> According to Koskenniemi, human rights are by and large unequipped for contestation when mainstreamed in an institutionalised setting.<sup>84</sup> He asserts that human rights may give little direction for (local) governance and can be made to suit every objective. In this sense, city leaders can call their city a human rights city while the average inhabitant would not be able to notice any difference.

Human rights may not always contest or transform, also in cities. Setting up an urban human rights office might be built on good intentions, while in practice it may well be an empty framework. A city official might be happy to preserve the status quo when that indicates no budgetary implications. The local government might initiate a human rights project to, for

<sup>75</sup> T. Risse, S.C. Ropp and K. Sikkink (eds.), *The Persistent Power of Human Rights. From Commitment to Compliance* (Cambridge: Cambridge University Press, 2013).

<sup>76</sup> Rajagopal, ‘Introduction Encountering Ambivalence’.

<sup>77</sup> M. Goodale and K.M. Clarke, ‘Introduction: Understanding the Multiplicity of Justice’, in K.M. Clarke and M. Goodale (eds.), *Mirrors of Justice, Law and Power in the Post-Cold War Era* (New York: Cambridge University Press, 2010).

<sup>78</sup> Goodman and Jinks, ‘How to influence states’.

<sup>79</sup> M. Goodale, ‘Human values and moral exclusion’ (2016) 9 *Ethics & Global Politics*, 1, 1-13, 8.

<sup>80</sup> Oomen and Baumgärtel, ‘Frontier Cities’.

<sup>81</sup> Aust, ‘Shining Cities on the Hill?’.

<sup>82</sup> Frug and Barron, ‘International Local Government Law’; Aust, ‘Shining Cities on the Hill?’. The World Bank, among other international institutions, have a particular vision of the city characterised by decentralisation and neoliberalism. To illustrate with a short quote: Cities Alliance, a global organisation that is co-chaired by World Bank and UN Habitat and committed to combat urban poverty, states in its 2004 Annual Report: ‘Cities and towns are essentially markets’.

<sup>83</sup> Porras, ‘The City in International Law’.

<sup>84</sup> M. Koskenniemi, ‘Human Rights Mainstreaming as a Strategy for Institutional Power’ (2010) *Humanity*, 1, 47-58.



example, ‘improve access to migrant rights’, but the actual lives of migrants might not be affected.

The discrepancy between intentions and outcome is not by definition the result of bad intents. As Oomen puts it: in some instances, human rights remain ‘too western, too vague, too abstract, too legalistic, too progressive and too hard to enforce’.<sup>85</sup> Other network circumstances might constrain the functioning of a human rights initiative. For example, states do not always appreciate cities’ own agendas. Blank remarks that when local governments try to ‘overreach their power’, they might encounter some problems from the state that will ‘pre-empt, curb and use its internal power to weaken the rebelling city’.<sup>86</sup> To illustrate, a local government might strive to assist undocumented migrants because they have a legal approach to human rights and feel obliged to do so. Their national counterparts might employ tactics to stop the local government from doing so. In another situation, a local government might operationalise human rights as principles of good governance, because they lack the competences to give hands and feet to a legal instrument.

Still, the examples above point to a rather thin description of the actual functioning of human rights. The crux is that we do not know much about the *urban* functions of human rights yet. It remains speculation. We do not know why precisely human rights foster the formation of a new coalition of actors in city A, while in city B the invocation of human rights results in an empty promise. To some degree, this could be argued for human rights in general. As Goodale states: ‘Yet even though the humanitarian goals of different international or transnational actors might be fairly straightforward in principle, the emergence of different means through which these goals are met has created a transnational normative pluralism whose full effects and meanings are still unclear’.<sup>87</sup> This research, therefore, aims to shed light on the urban functions of human rights, and the work behind these functions, in three cities amidst six urban debates on migration and diversity.

### 1.2.5 Case studies

#### *Migration and diversity*

I explore the functioning of human rights amidst the network circumstances of one particular topic: urban migration and diversity. Urban centres throughout the world experience an influx of people from the countryside as well as from transnational migrants. The motives for migration are multifaceted, they can range from seeking economic opportunities and family reunification to escaping from conflict. Today, migration goes hand in hand with urbanisation as most migrants move to cities.<sup>88</sup> Cities in particular perform a pull-factor for migrants because of their diversified functions and resources.<sup>89</sup> To many, the city stands for economic

---

<sup>85</sup> Oomen, ‘Introduction: The rise and challenges of human rights cities’, 11.

<sup>86</sup> Blank, ‘The City and the World’, 928.

<sup>87</sup> Goodale, ‘Introduction locating rights’, 8.

<sup>88</sup> Saunders, ‘Arrival City’; M. Raco and R. Tasan-Kok, ‘Governing urban diversity: Multi-scalar representations, local contexts, dissonant narratives’ (2019) 26 *European Urban and Regional Studies*, 3, 230-238.

<sup>89</sup> In several works, Sassen outlines how today ‘global cities’ are the epicentre of transnational flows of ‘capital, goods, raw material and labour’ that traditionally played out on the level of the nation state. The order has changed

opportunities, political freedom, a vibrant socio-cultural environment and acceptance of diversity.<sup>90</sup>

These various migration flows diversify the urban population, and alongside, local governments face new governance challenges.<sup>91</sup> While legal residency, or citizenship, is usually regulated at the national level, local governments are confronted with the tangible consequences of (undocumented) migration and urban diversity. Local governments, therefore, habitually respond to this intensified diversity and the arrival of (new) migrant groups, with papers or without, via the introduction of local migration and diversity policies, programs and projects. This municipal response, however, can imply many different things. Hoekstra distinguishes a number of them: she describes that local governments develop policy frameworks in cases that national frameworks are absent or inadequate, that local governments develop more welcoming, pragmatic or progressive policies, or contrastingly, that local governments try to protect their cities from ‘undesired’ migrants.<sup>92</sup>

Often, local governments develop migrant and diversity policies that are more welcoming or progressive than national frameworks.<sup>93</sup> The sanctuary cities movement offers an example. The label ‘sanctuary city’ refers to local governments that do not cooperate with the enforcement of national migration laws, generally to protect the undocumented inhabitants in the city. The city of San Francisco, for example, adopted the label City of Refuge in 1985 to protect inhabitants without documents from El Salvador and Guatemala from deportation.<sup>94</sup> Local governments’ responses are, however, not by definition more welcoming or more progressive. Raco and Tasan-Kok signal the rising rejection of diversity and migration policies across Europe, which also transpires to some European cities.<sup>95</sup> Furthermore, in some cases, the local government is the initiator of dismissive policies vis-à-vis migrants. Landau and Freemantle describe a ‘crime prevention operation’ of the local government of Johannesburg that led to the arrest of 198 undocumented migrants, which was later framed by city officials as a ‘success to combat social exclusion’.<sup>96</sup>

While the two examples above display the polar opposites of what a municipal response to diversity and migration may be, this illustrates that local governments can respond in a variety of ways: they have choices to make. This range of possibilities incites debate, disagreement and friction among urban actors, which is why the topic of migration and diversity is suited to the research questions. Especially in cities, because of their density in population and confined

---

and cities have grown to exert a dynamic and crucial position in the global economy. S. Sassen, *The Global City: New York, London, Tokyo* (Princeton: Princeton University Press, 1991); S. Sassen, ‘Global cities and diasporic networks: Microsites in Global Civil Society’ in H. Anheier, M. Glasius and M. Kaldor (eds.) *Global Civil Society* (Oxford: Oxford University Press, 2002).

<sup>90</sup> N. Schiller and A. Çağlar (eds.), *Locating migration. Rescaling cities and migrants* (Ithaca: Cornell University Press, 2011).

<sup>91</sup> Raco and Tasan-Kok, ‘Governing urban diversity’.

<sup>92</sup> M. Hoekstra, ‘Governing difference in the city: urban imaginaries and the policy practice of migrant incorporation’ (2017) *Territory, Politics, Governance*.

<sup>93</sup> Raco and Tasan-Kok, ‘Governing urban diversity’.

<sup>94</sup> R. Cuisson Villazor, ‘“Sanctuary Cities” and Local Citizenship’ (2009) 37 *The Fordham Urban Law Journal*, 2.

<sup>95</sup> Raco and Tasan-Kok, ‘Governing urban diversity’.

<sup>96</sup> L.B. Landau and I. Freemantle, ‘Tactical Cosmopolitanism and Idioms of Belonging: Insertion and Self-Exclusion in Johannesburg’ (2010) 36 *Journal of Ethnic and Migration Studies*, 3, 375-390.

space, one sees how material issues relate to notions on rights. Migration incites debates on who has a stronger right to the goods and services the city has to offer. Many local governments face difficulties in providing their inhabitants with adequate housing and other types of services. An influx of migrants enhances the pressures on housing, social benefits and job markets, and can simultaneously incite debates on who can access these services and goods. At the same time, urban diversity can spur tensions with regard to conflicting interests, norms and values between newcomers and ‘original’ inhabitants, or between citizens and non-citizens. For the purposes of this research, it is crucial that there exists an urban debate on the arrival of migrants, and the presence of urban diversity, because this allows me to explore how urban actors invoke human rights in such deliberations.

Human rights are a popular frame of reference in debates on migration and diversity. According to Sen it makes sense that human rights are invoked in debates on migration: ‘Few concepts are as frequently invoked in contemporary political discussions as human rights. There is something deeply attractive in the idea that every person anywhere in the world, irrespective of citizenship or territorial legislation, has some basic rights’.<sup>97</sup> For migrants, the norms of human rights can function as the legal and moral foundation to be included in society.<sup>98</sup> Local governments, for example, refer to human rights to give direction to their migration and diversity policies, while NGOs may refer to human rights to lobby for better treatment of a migrant group.

But, to invoke human rights versus a migration or diversity matter does not entail a prescribed protocol. It involves making decisions about which migrant groups to target, and which not, and it involves deliberating what kind of diversity is desirable, and what not. As Raco and Tasan-Kok remark, local governments are often sensitive to *certain* migrant flows.<sup>99</sup> Even under the ‘city of sanctuary’ label such decision-making can be inevitable. Darling describes how a welcoming city like Sheffield is hospitable to *some*.<sup>100</sup> The sanctuary policies of Sheffield encompass political calculation as to whom is offered hospitality, which involves differentiating between the ‘genuine’ refugee and the economic migrant. Such strategising is, likewise, also inevitably connected to urban usages of human rights. Human rights are constantly (re)interpreted by different urban actors according to their position in the urban migration and diversity debate. Hence, the topic of urban migration and diversity allows me to explore how human rights interact with dynamic and delicate network circumstances that centre around questions of migrants’ ‘deservingness’ and desired urban governance styles.

### *Selection of the three cities*

I will try to dissect the network circumstances surrounding urban migration and diversity in three cities: Amsterdam, Hong Kong and Buenos Aires. There are a few preconditions by which I selected these cities. On the one hand, these preconditions relate to some characteristics the

---

<sup>97</sup> Sen, ‘Elements of a Theory of Human Rights’, 1.

<sup>98</sup> E. Hirsch Ballin, *Citizens’ Rights and the Right to Be a Citizen* (Leiden: Brill Nijhoff, 2014); J.E. Nijman, *The Concept of International Legal Personality. An inquiry Into the History and Theory of International Law* (The Hague: T.M.C. Asser Press, 2004).

<sup>99</sup> Raco and Tasan-Kok, ‘Governing urban diversity’.

<sup>100</sup> Darling, ‘Moral Urbanism’.

cities have in common. I focus on cities that have a level of global connectedness, be it in a financial-economic, political or cultural sense, to make sure that they attract transnational migrants. The cities had to be diverse, in the sense of a diverse population with different ethnic backgrounds. The cities needed to have certain frictions related to migration. I focus on cities where diversity and the situation of specific migrant groups are a pressing topic in the public debate, although I chose cities with different type of frictions. The cities had to have some level of engagement with human rights, may it be local government or local civil society based.

On the other hand, the preconditions also guarantee a high level of variation. The cities have different constitutional arrangements and competences, different historical engagements with human rights, diverse migration trajectories, and dissimilar civil society actors. It could be argued that Hong Kong is not really a city, but a light version of a city-state. Or, that Buenos Aires is more like a province, since it has the same competences as the provinces of Argentina. Amsterdam, then, would be the only city that fits a more traditional distribution of powers between national and local levels of government. At the same time, this is what makes the case study selection interesting. Because the cities are so different, human rights function in dissimilar network circumstances. Also, I opted for a geographical spread, to not only present a western point of view.

But then, what is the purpose of choosing three cities that are in essence incomparable? By focusing on three different cities my aim is not to prove a firm causality: not to pinpoint that certain circumstances can predict the likeliness of a certain outcome. For instance, a conclusion such as ‘human rights are more likely to impact migration governance when they are approached as legal standards’ is not what I will be able to discover. Because my cities of choice are so different - I would call them ‘diverse cases’<sup>101</sup> – I am able to explore how varied the functions of human rights are. Each of the three cities is considered a case: a place to study a certain social phenomenon, the urban engagement with human rights, within a certain time frame. In this research, the time frame is a snapshot of a quite recent situation. In each case study, the interaction between the network circumstances will be different, and as a result, human rights norms will have diverse functions.

I focus on three cities, in three different continents, and on three different debates on migration. In each city, I explore two moments when the urban response to migration changed. More specifically, I focus on moments when an urban group mobilised human rights vis-à-vis this change. That said, an ‘urban response’ can mean many things. An urban response could mean the introduction of restrictive policies as well as the establishment of a shelter for migrants without legal residency. It could mean that a new social movement stands up. An urban response could involve the organisation of a festival to celebrate cultural diversity, or that a migrant group gets access to a certain social service. In each case study-chapter, I will study two moments. Human rights might have different functions in the space of one city. By discussing two moments, I am able to describe the different functions of human rights amid two network circumstances.

The first case, Amsterdam, is a diverse city with inhabitants of 180 different nationalities. Furthermore, it is an arrival city for migration flows from Africa and the Middle East (like many

---

<sup>101</sup> J. Gerring, *Case Study Research. Principles and Practices* (Cambridge: Cambridge University Press, 2006).

European cities). The fieldwork in Amsterdam took place between late 2017 and mid 2019: a time-frame in which local elections resulted in major changes. The local government of Amsterdam engaged with human rights in several policy domains. I focus on changes in two of those domains. (1) A growing number of ‘undocumented migrants’ fall outside the national asylum system and are drawn to cities such as Amsterdam.<sup>102</sup> While the asylum system is a responsibility of the national government, in practice many migrants end up on the streets of cities. This is why Amsterdam, and other Dutch municipalities, have developed policies on how to respond to this migration flow. The first moment revolves around the transformation of Amsterdam’s night shelter for undocumented migrants into a 24-hour shelter in 2018. The night shelter was introduced to respect the humanitarian minimum. But, the newly elected local government argued that they had to go one step further and provide an even more humane approach despite disapproval from the national government.<sup>103</sup> (2) The second moment is the launch of the ‘Amsterdam Human Rights Agenda’ as part of Amsterdam’s diversity policies.<sup>104</sup> The Human Rights Agenda aims to present human rights as a language for dialogue for Amsterdam’s diverse inhabitants, and as a frame of reference for civil servants.

The second case is the city of Hong Kong. Hong Kong is a destination for many women from South (East) Asian countries, who come to work as professional domestic workers. Hong Kong has designed a specific immigration scheme through which these foreign domestic workers can enter the territory. The workers can never become Hong Kong citizens, must live with their employers, and their monthly salary is restricted. At several moments, urban actors in Hong Kong engaged with human rights in relation to foreign domestic workers. This case builds on a fieldwork period that took place in the summer of 2018, exactly a year before the 2019-2020 mass protests started. (1) The first moment centres around the inclusion of foreign domestic workers in Hong Kong’s report for the Universal Periodic Review of 2018.<sup>105</sup> The Hong Kong government submits reports for the Universal Periodic Review of the United Nations Human Rights Council, because of its unusual constitutional arrangement with Mainland China. In the previous Universal Periodic Reviews, the situation of domestic workers was not mentioned, although civil society did lobby for such inclusion. (2) The Hong Kong government reported on its human rights track record at the global stage, but at the same time, the use of human rights language was perceived as political and sensitive in urban debates. In the second moment, human rights, though inexplicitly, played a role in a minor victory of civil society organisations. The Standard Contract for Foreign Domestic Workers was amended for it to prohibit the

---

<sup>102</sup> Undocumented migrants fall outside of the formal migration system of the Netherlands because some do not leave the territory after their asylum request has been rejected, others have never applied for asylum, some are preparing for a second or third asylum procedure and another group is waiting for their Dublin claim to expire.

<sup>103</sup> For the new 24-hour shelter policy, see:

<https://www.amsterdam.nl/zorg-ondersteuning/ondersteuning/vluchtelingen/24-uursopvang-ongedocumenteerden/>

<sup>104</sup> For the Amsterdam Human Rights Agenda, see:

[https://assets.amsterdam.nl/publish/pages/799393/brief\\_mensenrechten\\_in\\_amsterdam.pdf](https://assets.amsterdam.nl/publish/pages/799393/brief_mensenrechten_in_amsterdam.pdf)

<sup>105</sup> For the 2018 Universal Periodic Review report, see:

<http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WG.6/31/CHN/1&Lang=E>

cleaning of exterior windows of high-rise buildings.<sup>106</sup> This may seem trivial, but it reflects bigger concerns.

The third case, Buenos Aires, is an economic hub in Latin America that attracts large numbers of regional migrants. This migration flow is facilitated by MERCOSUR's free movement and residence regime. Human rights are a popular and common discursive language that became embedded in Argentina in response to the last dictatorship. Urban actors in Buenos Aires also routinely engaged with human rights. Though, there was a tension between the work of the local Secretariat for Human Rights and Cultural Pluralism and an urban social movement that was protesting actions of the national and local government. This case is based on a fieldwork period in early 2018, and therefore represents the situation before the 2019 national elections that resulted in a political shift to the left. (1) The first moment focuses on the introduction of the program 'Buenos Aires Celebrates' as the core activity of the local Secretariat for Human Rights and Cultural Pluralism.<sup>107</sup> Previously, the work of the local secretariat focused on memory and justice in relation to Argentina's last dictatorship. Their line of work has changed as the local secretariat started to organise festivals to celebrate multiculturalism under the wing of human rights promotion. (2) The second moment centres around the urban response to the executive decree 70/2017 of urgency and necessity to Argentina's Migration Law. Argentina's progressive Migration Law, which incorporates human rights norms, was amended in a way that confines the rights of (regional) migrants.<sup>108</sup> Buenos Aires' local government supported the decree in silence, while urban civil society actors condemned it as a grave human rights violation.

### 1.3 Methodological lens: Cities as actor networks

#### 1.3.1 Introduction

This section describes how I went about writing the case study chapters on Buenos Aires, Amsterdam and Hong Kong. It provides a guide to my methodological lens: the ways I explore, order and present the data. Thus, this section provides insight into how I analyse the network circumstances in which human rights function, and it therewith clarifies the structure of the case study chapters.

I use actor network theory (ANT) to comprehend the network circumstances. ANT allows me to take into account that human rights are not neutral, and nor are cities. Cities can be portrayed as uniformly striving for neutral-sounding values such as 'good governance', 'local autonomy' or 'best practices'. Frug and Barron call for scepticism about this appeal to cities' neutrality.<sup>109</sup> While cities are often portrayed as a 'neutral grid', they are not a uniform group with a common

<sup>106</sup> For the Window-Cleaning Clause to the Standard Employment Contract for foreign domestic workers in Hong Kong, see: <https://www.info.gov.hk/gia/general/201611/14/P2016111400643.htm>

<sup>107</sup> For the municipal program BA Celebra, see: <https://www.buenosaires.gob.ar/derechoshumanos/ba-celebra>

<sup>108</sup> For the presidential decree 70/2017 to Migration Law 25.571, see: <https://www.refworld.org/docid/58aef8334.html>

<sup>109</sup> Frug and Barron, 'International local government law'.

interest.<sup>110</sup> It matters which city one studies, and which urban actor one studies. Each city needs to be understood in relation to its region, its country and its internal dynamics.<sup>111</sup>

ANT helps me to move beyond the portrayal of the city as a black box where many complex interpretations, negotiations, vernacularisations, contextualisations and contestations of human rights take place. The key authors of ANT - Bruno Latour, John Law and Michael Callon - gradually developed ANT as an alternative 'toolbox' for studying 'the social'. They were searching for ways to move beyond the typical and static explanations of phenomena in social sciences, such as 'things are the way they are because of the social and political context'. ANT helps grasp that the city is not a static entity and that there is no such thing as 'a local context'. This implies that also within cities, there are frictions and disagreement as to how the city should be understood and how human rights should function.

First, I discuss the crucial building blocks of ANT that I employ in this research. Subsequently, I use two sections, 'the non-human' and 'the interests', to illustrate what these buildings blocks may entail for the topic of this research. Finally, I move beyond presenting networks as static connections between non-human and human elements. In the final section, I clarify that ANT is about the activities actors engage in, and I describe how this 'activity' plays a key role in the case study chapters.

### 1.3.2 A network view

When thinking about cities, one can consider them as administrative units bound by clear cut borders, as places where people live and economies thrive, or as spaces where multiple actor networks meet. I focus on the latter, with special attention for the local government as such an actor.

It is crucial to not consider the local government as a coherently operating actor. ANT breaks open pre-defined groups such as 'the local government' or 'civil society' and explores the internal dynamics of such actors. Every case study chapter starts with a description of the bits and pieces that make up an actor, such as the local government or civil society.<sup>112</sup> This is crucial because the different actors within the local government may use human rights differently. For instance, city leaders may have more attention for the (international) profile of the city, while the policy officer strives to prepare a concrete policy document and the legal department is concerned about the legal implications of the usage of human rights in this policy document, because that is what these actors are supposed to do.

Oomen explains that most urban human rights initiatives start with an enthusiastic individual, a 'norm entrepreneur'.<sup>113</sup> A network view helps me take into account the network circumstances surrounding this individual, as the individual did not simply 'make things happen'. This is not an explanation that suffices, it needs to be broken down into many other interactions. This

---

<sup>110</sup> Sennett, *Building and dwelling*.

<sup>111</sup> Frug and Barron, 'International local government law'.

<sup>112</sup> J. Law, 'Notes on the Theory of the Actor-Network: Ordering, Strategy, and Heterogeneity' (1992) 5 *Systems Practice*, 4, 379-393.

<sup>113</sup> Oomen, 'Introduction: The rise and challenges of human rights cities'.

individual might have had an inspirational colleague that previously worked as a human rights lawyer or there might have been some additional funds that had to be allocated. It could be that there was a newly elected city council that wanted to profile itself in terms of diversity and inclusiveness, or a national government that urged the municipality to develop something in the name of human rights. Thus, when asking questions as to why events unfold, an actor network view allows you to be sensitive to all the (little) connections that might be of relevance.

ANT furthermore moves beyond predetermined hierarchies and includes both humans (such as civil servants) and non-humans (e.g. laws or the built environment).<sup>114</sup> Therefore, it helps me to take into account that all invocations of human rights interact with human, as well as non-human network circumstances e.g. constitutional arrangements, the authority of a local government, local legislation, urban spaces for dialogue and contestation, interests and expertise of actors and possibly more. ANT subscribes that there exists no predetermined order in these elements. It could be that the embeddedness of human rights norms in the national constitution incites the engagement with human rights by the local government. But this would be an outcome of this research rather than my starting point. Hence, the demands of the national government do not automatically have more weight than the conversation that took place with a colleague with a background in human rights. Moreover, if the demands of the national government turn out to be decisive, this research will portray how this comes to be.

For ANT, the position and connectedness of an actor in the network is most crucial.<sup>115</sup> The better an actor is connected, the more it is able to circulate ‘something’: an idea, a norm, a thing. This interaction takes place somewhere, at sites: a place where actions unfold because it mobilises (distant) actors.<sup>116</sup> To illustrate, in the organisation of a local government, the decision-making about which norms to place central and the implementation of those norms usually advances in different offices or departments, and will thus be exposed to different network circumstances.<sup>117</sup> Local politicians might decide to integrate human rights norms in the policy domain ‘housing’. The civil servants working in the policy domain ‘housing’, subsequently, need to figure out what ‘integrating human rights’ entails as they prepare the new policy. The local politicians and the civil servants have access to different facilities, resources and expertise and therefore approach their task differently. Hence, it is likely to matter whether a ‘human rights issue’ is brought into the city council, or whether it is discussed in a weekly roundtable of a local NGO. The city council meeting might be streamed online, reported on by journalists or followed by national politicians, whereas the closed-off NGO meeting only matters to those around the table. On the other hand, during the weekly roundtable the NGO might prepare strategic litigation. And, once the NGO brings the case to the courtroom, the ‘human rights issue’ would be exposed to another space with its own connections.

---

<sup>114</sup> B. Latour, *Reassembling the Social. An Introduction to Actor-Network-Theory* (Oxford: Oxford University Press, 2005).

<sup>115</sup> M. Callon and J. Law, ‘Introduction: absence – presence, circulation, and encountering in complex space’ (2004) *Environment and Planning D*, 22, 3-11.

<sup>116</sup> Ibid.

<sup>117</sup> H. Huelss, ‘After decision-making: the operationalization of norms in International Relations’ (2017) 9 *International Theory*, 3, 381-409.



### 1.3.3 The non-human

This section discusses some of the non-human elements that *may* be part of the network circumstances in the city. I put emphasis on *may* because my point is that the configuration of networks varies in every case.

These non-human elements would often be considered as ‘the context’. Many scholars, such as Florini, point to the relevance of context, while context as such does not reveal much.<sup>118</sup> Context often refers to what is rooted in history, norms, traditions, the more static ‘stuff’ that is too complex to grasp. Florini, for instance, argues that norms constantly compete with other norms and that because of *some factors* certain norms are reproduced at higher rates than others.<sup>119</sup> Some norms are more prominent in the ‘norm pool’, because they are more compatible with prevalent norms or because they better suit *the context*. What the context is remains disappointingly vague. However, according to Latour, ANT is capable of unravelling these contexts.<sup>120</sup> Essentially, ANT subscribes that there is no such thing as a context. Callon and Law emphasise: ‘There is no context in which beings, events, naturally arrange themselves’.<sup>121</sup> A context does not deliver fixed coordinates that lead to a firm outcome. However, the word context might be useful in another way. You might be a step closer to the non-human elements in the actor network when you pay attention to those conditions that are put forward by actors as context: the aspects actors refer to when they explain why things are the way they are. Here I could think of contextual elements being put forward in interviews, as well as in actors’ policy documents or other written material.

One could think of a city’s history, the built environment and the challenges urban space is exposed to. In a city with a housing crisis, the human right to adequate housing might be more likely to be invoked. In a city suffering from environmental hazards, one could imagine other rights being invoked. Cities with a profound history of migration might be more inclined to call on their identity as a ‘migration city’ and explicitly commit to the rights of migrants. Thus, engagement with human rights could depend on whether norms fit ideas on how the city is or should be.<sup>122</sup> The context might also consist of the domestic legal system. It perhaps matters whether a country is dualist or monist<sup>123</sup>, which international or regional human rights

---

<sup>118</sup> A. Florini, ‘The evolution of international norms’ (1996) 40 *International Studies Quarterly*, 3, 363-389.

<sup>119</sup> Ibid.

<sup>120</sup> B. Latour, ‘On actor-network theory: a few clarifications’ (1996) *Soziale Welt*, 47, 369-381; Latour, *Reassembling the social*; B. Latour, ‘The Powers of Association’ (1986) *The Sociological Review Monograph*, 32, 264-280.

<sup>121</sup> Callon and Law, ‘Introduction: absence – presence’.

<sup>122</sup> When I search for places where urban actors put forward their ideas on a city’s identity, I immediately think of local government websites, promotion material, city branding campaigns, as well as cities’ engagement at the international stage and speeches by mayors. Additionally, also in interviews actors regularly refer to their ideas about how their city is or should be.

<sup>123</sup> Most domestic constitutions define the ways in which international law enters the domestic legal sphere. Some states allow direct application of international law by courts and administrative agencies and others do not allow this. The latter dualist model applies a division of legal orders and requires the enactment of international legal norms in a specific national or domestic law. Under monism, international law usually ranks higher than domestic law and provisions can be invoked in courts after the concerned state has gone through ratification, succession or accession. In practice many international legal norms, including human rights norms, are incomplete and need domestic law to give them hands and feet. Most states follow an in-between mode that incorporates elements of monism and dualism. J. Klabbers, *International Law* (Cambridge: Cambridge University Press, 2013); N. Ando,

instruments the state is a party to, or whether human rights norms are included in constitutional laws. But, at the same time, all of this might not make up the context. Local governments can take a course that departs from their state's point of view, they can adhere to global norms their state is not committed to. Though, the point is that the conditions above could matter. States' formal commitments to human rights norms do not guarantee change in 'concrete practices on the ground', but they might.<sup>124</sup>

With regard to the non-human elements in the network, one could also think of constitutional arrangements and whether a state is centralist or federalist.<sup>125</sup> Formally, local governments only exercise authority within the legal frameworks that their state has created for them.<sup>126</sup> Constitutional and municipal law prescribes whether local governments can act independently or when they can do so with approval from a higher level of government.<sup>127</sup> This relationship between the local and national government defines what authority local governments may possess, what their duties may be, what services will be provided locally, how much discretion they should have when using their powers, and what level of fiscal dependency local governments should have.<sup>128</sup> In case that the local government is responsible for housing, city officials might be more required or inclined to engage with human rights language in this domain. If immigration policies are a responsibility of the national government, the local government may be inclined not to touch the topic of migrant rights. Blank argues that local governments' ability to depart from their national governments, for instance by advocating migrant rights while the national government is reluctant, also depends on fiscal independence.<sup>129</sup> Rich local governments can afford to have conflicts with the national government.

#### 1.3.4 The interests

The section above emphasised the non-human elements of the potential network circumstances surrounding human rights in the city. I want to stress that actors' interests in, and beyond, human rights play a defining role too. There may be many interests and strategies at play. More importantly, there can be interests at play beyond an interest in realising human rights. Engagement with human rights does not always equal an interest in human rights, it can also involve coercion or mimicking other actors.

---

'National Implementation and Interpretation', in D. Shelton (ed.), *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013).

<sup>124</sup> Goodman and Jinks, 'Incomplete Internalization', 727.

<sup>125</sup> Oomen and Baumgärtel, 'Frontier Cities'.

<sup>126</sup> Frug and Barron, 'International local government law'.

<sup>127</sup> Ibid.

<sup>128</sup> Though, Blank and Porras stress that even when the distribution of power between the two governmental levels is laid down by the state's constitution, there is a constant negotiation on certain issues. It is a constant debate that legislatures, administrative entities and courts are engaged in. Almost every decision involves the division of powers between the national and local government, argues Blank. One could think of local taxing policies, local planning and zoning, business licencing, marriage licencing, education and so on. Blank, 'The City and the World'; Porras, 'The City in International Law'.

<sup>129</sup> Blank, 'The City and the World'.

This section, likewise, discusses some examples of interests. This is to illustrate what could be part of the network circumstances. I want to underscore that ‘contexts’ and interests always go together. For example, a mayor or an influential local government official might fully believe in the validity of human rights, but is budgetary constrained or not able to convince the city’s legislators, and therefore unable to initiate a human rights project. The non-human and human are artificially separated in these sections, but will not be discussed as such in the case study chapters.

Urban actors might refer to human rights because they are convinced of the validity and legitimacy of the norms. Goodman and Jinks call this the mechanism of persuasion.<sup>130</sup> Persuasion could incite action because a local government would feel responsible and obliged to act upon human rights norms in the realm of migration and diversity, possibly also in cases when the national government does not. Though, persuasion of the validity of human rights can intertwine with other interests. Local governments are, as has been mentioned, also concerned with their international profile and financial situation. This links to acculturation: engagement with a norm because of the adoption of beliefs and behaviour of the surrounding culture.<sup>131</sup> Acculturation is associated with internal and external pressures to assimilate as a means of status accumulation or self-identification. International institutions, city networks or other cities might acculturate a local government towards an interest in human rights. Engaging with human rights can bring about funding, a distinct status and identity, in a time when local governments are actively self-aware and concerned with their international status.<sup>132</sup> In this sense, economic or political interests may go hand in hand with an interest in realising a human rights norm.

At the same time, local governments may also be coerced to engage with human rights, even without a firm acceptance of the norms. This could apply when the state is a party to a human rights convention and obliges its local counterparts to explicitly engage with the norms embedded in this convention. Or, civil society actors might coerce the local government into compliance after taking them to court.<sup>133</sup> A local government might not ‘believe’ in human rights norms, but would be forced to engage with them.

### 1.3.5 Translation

This section explains the use of ANT by adding one extra dimension. In the case study chapters, I do not only draw on ANT to be able to identify the different human and non-human actors, and their interests, I predominantly use ANT to describe what kind of activities these actors engage in. Insight into these activities allows me to portray which network circumstances play a crucial role.

ANT is also called the ‘sociology of translation’.<sup>134</sup> Rather than drawing a ‘network of single point actors’, ANT concerns itself with exploring processes of translation. Translation refers to

---

<sup>130</sup> Goodman and Jinks, ‘How to influence states’.

<sup>131</sup> Ibid.

<sup>132</sup> Nijman, ‘The Renaissance of the City’.

<sup>133</sup> M. Finnemore and K. Sikkink, ‘International Norm Dynamics and Political Change’ (1998) *International Organization*, 52, 887-917.

<sup>134</sup> Latour, ‘On actor-network theory’; Latour, *Reassembling the social*.

the processes of negotiation, strategising and ordering that take place - in this case - in the city.<sup>135</sup> Actors become part of an actor network when they are translated by another actor: for instance, when their interests have changed or when they are assigned a particular role.<sup>136</sup> ANT provides the tools, or the language, to describe these processes. Translation, in this sense, is the activity that makes the actor network 'work'.

The case study chapters centre around descriptions of this translation activity. I focus on translations that took place during city council meetings, during the interviews I conducted, in policy documents and websites that were carefully written and updated, and on translations that were embedded in speeches prepared by government officials. More specifically, I describe translation activities that took place in relation to a moment when the response to diversity and migration changed.

A more tangible example of what translation can entail is provided by Callon, who writes about 'modes of translation'.<sup>137</sup> In the case study chapters, I build on two of these translation modes: problematisation and enrolment. Callon perceives problematisation as the process whereby actors are trying to understand a problem, and in correspondence, define their own position vis-à-vis that problem. For instance, the process wherein a local government tries to explain why they have commenced a human rights project. What problem will the project tackle and why must the local government initiate this project? The traces of this process can be found, for instance, in the policy document that is prepared on the project or in an interview with the civil servants responsible for the project. Through the process of problematisation, the actors tell me something about the network circumstances. They might explain that the human rights project was started because of a human rights obligation, the vulnerable situation of a particular migrant group or because it suits the identity of the city. Hence, when actors problematise, they provide insight into their interests and their interpretations of the non-human elements of the network.

Another translation process revolves around enrolment. Callon considers this as a set of activities in which actors try to define or interrelate the roles they have assigned to themselves and others.<sup>138</sup> Part of this translation activity could be the efforts in which the local government tries to convince others to have a particular role in their human rights project. For instance, by involving local NGOs. The involved NGOs, subsequently, make their mark on the process. But enrolment does not only show which actors are involved, and why, it also reveals the strategising about which actors not to enrol. Therefore, the process of enrolment tells me something about the type of actors that are involved, and their ability to influence the human rights project, which in turn sheds light on the network circumstances.

---

<sup>135</sup> Law, 'Notes on the Theory of the Actor-Network'.

<sup>136</sup> M. Callon, 'Some elements of a sociology of translation: domestication of the scallops and the fishermen of St Brieuc Bay', in J. Law (ed.), *Power, action and belief: a new sociology of knowledge?* (London: Routledge, 1986).

<sup>137</sup> Ibid.

<sup>138</sup> Callon, 'Some elements of a sociology of translation'; M. Callon and J. Law, 'On Interest and Their Transformation: Enrolment and Counter-Enrolment' (1982) 12 *Social Studies of Science*, 4, 615-625.

## 1.4 Methods: Assembling empirical data

### 1.4.1 Sources

This research is of qualitative rather than quantitative nature, and consequently, it does not measure how actors score on an indicator of a certain dependent variable. This research does not quantify how strong a connection is, it merely describes the nature of the connection. When describing various translation activities, I had to decide what to include and what to leave out. This inevitably leads to a degree of arbitrariness, but this can be minimalised by following the traces actors leave behind. Latour reasons that if there are no traces, there is nothing to describe and the researcher should remain silent.<sup>139</sup> I, therefore, had to rely on the traces I could find, in interviews, online, in policy documents and reports of city councils. I paid attention to the ways actors themselves made references to their ‘context’ and interests. Therefore, it was not suited to this research to provide a full historical or legal context beforehand.

This research is based on different sources, namely: observation at events, in-depth interviews, policy documents, websites, and records of city council meetings. To answer the research questions, different types of data are combined. ANT makes us aware of the fact that institutions such as the local government do not represent one shared viewpoint. A local government might not have a unified view on human rights. The local government consists of a network of different people, who belong to different political parties, and have different ideas, and who are constrained by different factors. If I had to rely on interviews solely, the data would have become coloured by the ideas of a limited group of individuals. The interviews, therefore, are always combined with other sources. The storyline of the case study chapters has been largely determined by documents, websites and records of city council meetings. These written sources do not only provide valuable insight into the ways of reasoning, the intentions and ideals of an urban actor, they also provide hints of the work behind such aims. For example, policy documents often give insights into the finances (which may reveal budgetary constraints) and the distributions of roles (which may provide clarity on competences and what kind of expertise is on board). Additionally, municipal websites display what kind of message the local government wants to make public.

The interviews were crucial to describe the nature of the connections between actors and to illustrate the written sources. Through the interviews, I was able to validate and further explore the written material that I found online. I would, for instance, ask *why* an NGO self-identifies as a human rights organisation if I found such a statement on their website. The interviews give depth to the other sources, and they may also help reveal what was deliberately not written down. Oomen notes that human rights sometimes become blended with other language for strategic reasons: ‘In York, for instance, an advisory body initially called the Human Rights Commission was renamed the Fairness Commission instead. In Denmark, those involved in promoting human rights prefer to refer to ‘equal treatment’ instead. The term human rights, as the mayor of a Dutch city explained, ‘sometimes sounds alien to people, and has connotations that are too severe. We want to be a human rights city without actually speaking about it in

---

<sup>139</sup> Latour, Reassembling the social.

those terms”<sup>140</sup> Therefore, I had to be conscious of the fact that human rights are not always literally observable and explicitly mentioned in a policy document, a website, or a speech. Through the interviews, I was able to validate such absences.

#### 1.4.2 Data collection

This research does not represent a migrant point of view, it tries to get an understanding of the networks surrounding particular diversity and/or migration issues. I, for instance, spoke to migrant organisations, rather than individual migrants. I used ‘snowball sampling’ to select the interviewees. This means that I began with a predefined group of actors, which expanded organically. The predefined group of actors was selected through a mapping exercise whereby I made lists of civil society organisations, academics, local government offices and lawyers that repeatedly popped up in the debate on migration and diversity. Thereafter, I used the contacts that came out of this initial group to expand my scope.

The other sources - policy documents, websites, and records of city councils – were gathered through a similar snowball strategy. During the first stage of the data collection, I did a mapping exercise of all relevant documents and records that could be found online, and thereafter I relied on these texts, as well as on the interviews, to direct me towards other written material. This way of sampling does not guarantee one static outcome. This research might have had different nuances would I have spoken to other people and would I have read other documents.

I conducted semi-structured, in-depth interviews of 45 to 90 minutes. In each city, I interviewed between 14-20 people who were part of an organisation (which could mean a local government office, a civil society organisation, a law firm, a social movement or a university). Each of the case study chapters provides a brief observation as to how the interviews went, and the full list of organisations that have been interviewed can be found in Appendix A. The interviewees were fully informed about the nature of my research, that I would not mention their name but only their organisation, and that they could tell me afterwards if they would like certain passages to be deleted from the record. In practice, the latter did not happen often, although a number of people asked for the tape recorder to be turned off temporarily. I would take notes at those instances and made sure that the statements would not be traceable to a specific organisation. After conducting the interview, their consent was asked, in writing or on tape, once more.

During the interviews, I used a topic list to guide the conversation (see Appendix B). The topic list continued to change. Initially, I conducted three ‘test-interviews’ in Amsterdam to finetune the draft topic list. Eventually, each interview had a different focus and some topics of its own. The interviews were prepared in light of the background of the interviewee. Some interviewees were not able to answer questions related to each topic, and some interviews touched upon topics I had not anticipated. As a result, the questions asked during interviews were not identical.

Still, the topic list guaranteed some level of conformity and ensured that all crucial topics were discussed. During the interviews, I did not steer the conversation to human rights from the start.

---

<sup>140</sup> Oomen, ‘Introduction: The rise and challenges of human rights cities’, 12.

I started to discuss themes such as the situation of a particular migrant group, and the entangled frictions in the city, and waited to see whether and how the interviewees directed the conversation towards human rights. I used this approach because this would more likely show how interviewees connected human rights to their work, rather than me presenting these connections. Eventually, in each interview the conversation was directed to human rights to get a better sense of the reasoning behind the interviewee's approach to human rights.

### 1.4.3 Analysis

Most of the interviews have been recorded on tape, with the exception of six. For those six interviews, I tried to take detailed notes during and after the conversation. I fully transcribed the recorded interviews, to be able to use quotes and to not lose the context of the conversation. All transcribed and non-transcribed interviews, as well as observation, policy documents and records of meetings, were coded to structure the writing process. Coding simplified the interpretation and analysis of the data as it allows you to structure the material around certain notions or concepts that derive from the methodological framework.

Several phases of coding were executed with the help of the software Atlas.ti. Coding is an arbitrary process that matured and grew to be more thorough. Every time I went through the data, I would add and delete codes. This process can be divided into roughly three phases. In the first phase, after having collected some data, I did explorative coding. This explorative coding helped me to make sense of the first set of data, and it sharpened the methodology. After the methodology was more or less set, the second phase of coding started. In this phase, the data collection was finished and I used the methodological framework to develop a codebook (see Appendix C). I created codes such as: 'ApproachLegal', 'ApproachMoral', 'Enrolment-others' and 'Problematization-history'. Because I write about two moments in each city, the codes were created in the following manner. For instance, for a legal approach to human rights in the first moment: 'M1-ApproachLegal'. In the third phase, the codes were specified for them to suit each case study. For instance, before conducting fieldwork in Buenos Aires I had no precise idea on what kind of non-human elements I was going to find. Initially, much was coded under the code 'Problematization-history'. In this third phase of coding, I was able to narrow this down and divide the code 'Problematization-history' into the sub-codes such as 'M1Problematization-Dictatorship'.

Because this research does not work with a fixed approach to human rights, but a rather fluid one, I reflected this in the coding. I did not only code a reference to human rights when someone or a document literally mentioned the word human rights. For instance, in the case study on Amsterdam, the notion 'humanitarian minimum' was used interchangeably with human rights, which is why both were coded under human rights.

### **1.5 Roadmap of the dissertation**

The structure of this dissertation is rather straightforward. Each case is represented in a chapter. Moreover, the case study chapters on Amsterdam, Hong Kong and Buenos Aires follow a similar structure, on the basis of concepts that derive from the previously discussed methodology.

Each case study chapter centres around two moments when the response to urban migration and/or diversity changed. Amidst these moments, urban actors invoked human rights, be it as legal standards, moral values or principles of good governance. The case study chapters focus on assessing the particular network circumstances surrounding these moments, to explore the functioning of human rights. These network circumstances are mapped on the basis of the concepts ‘problematisation’ and ‘enrolment’, which provide insight into the interaction between interests and context, cooperation and exclusion, strategy and practical constraints. Hence, each case study chapter covers two stories, two descriptions of the network circumstances surrounding an invocation of human rights, which are brought together in the concluding section of each chapter.

Notwithstanding their streamlined structure, the case study chapters present very dissimilar stories. The first case study chapter is on Amsterdam, which is often depicted as a progressive city in the realm of migration and diversity. This chapter sheds light on the challenges behind such an aim to be progressive. The chapter on Hong Kong is characterised by the tense relation with China. This relation defines how, when and where human rights can be spoken about. At the same time, civil society actors demonstrate how one can strategically work around such difficulties. In Buenos Aires, human rights language is institutionalised and part of the urban fabric. Even though, this chapter does not present a profile of a progressive local government that follows its own path. On the contrary, this last case study chapter depicts a local government that by and large follows the national level of government when it comes to invoking rights vis-à-vis the city’s migrants.

The final chapter, ‘the urban functions of human rights’, analyses the main findings of the case studies and answers the main research question. It draws comparisons between the three different cities as I present five different functions of human rights that can be found in the city. Some of these five functions show commonalities between Amsterdam, Hong Kong and Buenos Aires, while others show stark differences between the cities, and within. To unpack the interactions in the city that generate these urban functions of human rights, I discuss what is particular about the urban. In other words, this chapter distils four crucial urban network circumstances that continuously interact with the usage of human rights.





Photo by [Yannis Abelas](#) on [Unsplash](#)